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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MORRIS HAIMOWITZ, Derivatively,
On Behalf of CUTTER & BUCK, INC.,

Plaintiff,

vs.

FRANCES M. CONLEY, MICHAEL S.
BROWNFIELD, LARRY C.
MOUNGER, JAMES C. TOWNE,
HARVEY N. JONES, MARTIN J.
MARKS AND STEPHEN S. LOWBER,

Defendants,

- and -

CUTTER & BUCK, INC., a Washington
Corporation,

Nominal Defendant.

NO. **C03-2318**

VERIFIED SHAREHOLDER
DERIVATIVE COMPLAINT FOR
BREACH OF FIDUCIARY DUTY,
ABUSE OF CONTROL, GROSS
MISMANAGEMENT AND UNJUST
ENRICHMENT

DEMAND FOR JURY TRIAL

Plaintiff submits, through his attorneys, the following Verified Shareholder
Derivative Complaint against the defendants named herein.

VERIFIED SHAREHOLDER
DERIVATIVE COMPLAINT - 1

LAW OFFICES OF KIRK R. MOLFINGER
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Bellevue, Washington 98004
T (425)454-0297 F (425)747-1763

1 **NATURE OF THE ACTION**

2 1. This is a shareholder derivative action brought by a shareholder of Cutter &
3 Buck, Inc. ("Cutter & Buck" or the "Company"), on behalf of the Company against certain
4 of its officers and directors seeking to remedy defendants' violations of Washington law,
5 including breaches of fiduciary duties, which have caused substantial losses to Cutter &
6 Buck and other damages, such as to its reputation and goodwill from June 23, 2000 to
7 August 12, 2002 (the "Relevant Period").

8 **JURISDICTION AND VENUE**

9 2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §
10 1332(a)(1) in that plaintiffs and defendants are citizens of different states and the matter in
11 controversy exceeds \$75,000, exclusive of interest and costs.

12 3. This action is not a collusive one designed to confer jurisdiction on a court
13 of the United States which it would not otherwise have.

14 4. Venue is proper in this Court because one or more of the defendants either
15 resides in or maintains executive offices in this District, a substantial portion of the
16 transactions and wrongs complained of herein, including the defendants' primary
17 participation in the wrongful acts detailed herein and aiding and abetting and conspiracy in
18 violation of fiduciary duties owed to Cutter & Buck, occurred in this District, and
19 defendants have received substantial compensation in this District by doing business here
20 and engaging in numerous activities which had an effect in this District.

21 **PARTIES**

22 5. Plaintiff, Morris Haimowitz is, and at times relevant hereto was, a
23 shareholder of Cutter & Buck. Mr. Haimowitz is a citizen of California.

24 6. Nominal defendant, Cutter & Buck, is headquartered at 2701 First Avenue,
25 Suite 500, Seattle, Washington. Defendant Cutter & Buck designs and markets upscale
men's and women's sportswear and outerwear under the Cutter & Buck brand. The

1 Company sells its products primarily through golf pro shops and resorts, corporate
2 accounts, specialty retail, and Company-owned retail stores.

3 7. Defendant Frances M. Conley ("Conley") is, and has been since on or about
4 April 19, 2002, interim Chairman of the Board and Chief Executive Officer ("CEO") of
5 Cutter & Buck. Throughout the Relevant Period, Conley served as a Director, Chair of the
6 Audit Committee and as a member of the Compensation Committee of Cutter & Buck.
7 Because of Conley's positions, she knew of the adverse non-public information about the
8 business of Cutter & Buck, as well as its finances, markets and present and future business
9 prospects via access to internal corporate documents (including Cutter & Buck's operating
10 plans, budgets and forecasts and reports of actual operations compared thereto),
11 conversations and connections with other corporate officers and employees, attendance at
12 management and Board of Directors' meetings and committees thereof, and via reports and
13 other information provided to her in connection therewith. During the Relevant Period,
14 Conley participated in the issuance and/or review of false and/or misleading statements,
15 including the preparation of false and/or misleading press releases and Securities Exchange
16 Commission ("SEC") filings. Defendant Conley is a direct participant in the wrongdoing
17 complained of herein, in that in her current capacity as the Company's interim CEO and
18 Chairman of the Board, and in her capacity as a board member throughout the Relevant
19 Period, she engaged in the illegal acts and practices complained of herein by causing,
20 approving and/or authorizing the improper accounting and reporting of Cutter & Buck's
21 finances, business and prospects, specifically including the Company's improper entries of
22 sales into incorrect periods and inaccurate reporting of sales by distribution channels which
23 caused the Company to improperly recognize revenue for the fiscal years ended 2000,
24 2001 and 2002, the effect of all of which was to cause Cutter & Buck in August 2002 to
25 admit that it must restate its financial statements for fiscal years 2000, 2001 and 2002, and
to reduce its previously reported earnings. Conley is a citizen of Washington.

1 8. Defendant Michael S. Brownfield ("Brownfield") is, and at all times
2 relevant to the allegations raised herein was, a Director of the Company and a member of
3 the Board's Compensation Committee and Chair of the Nominating Committee. Because
4 of Brownfield's positions, he knew of the adverse non-public information about the
5 business of Cutter & Buck, as well as its finances, markets and present and future business
6 prospects via access to internal corporate documents (including Cutter & Buck's operating
7 plans, budgets and forecasts and reports of actual operations compared thereto),
8 conversations and connections with corporate officers and employees, attendance at Board
9 of Directors' meetings and committees thereof, and via reports and other information
10 provided to him in connection therewith. Defendant Brownfield is a direct participant in
11 the wrongdoing complained of herein, in that in his capacity as a member of the
12 Company's Board, he engaged in the illegal acts and practices complained of herein by
13 causing, approving and/or authorizing the improper accounting and reporting of Cutter &
14 Buck's finances, business and prospects, specifically including the Company's improper
15 entries of sales into incorrect periods and inaccurate reporting of sales by distribution
16 channels which caused the Company to improperly recognize revenue for the fiscal years
17 ended 2000, 2001 and 2002, the effect of all of which was to cause Cutter & Buck in
18 August 2002 to admit that it must restate its financial statements for fiscal years 2000,
19 2001 and 2002, and to reduce its previously reported earnings. Brownfield is a citizen of
Washington.

20 9. Defendant Larry C. Mounger ("Mounger") is, and at all times relevant to the
21 allegations raised herein was, a Director of the Company, a member of the Board's Audit
22 Committee and Chair of the Compensation Committee. Because of Mounger's positions,
23 he knew of the adverse non-public information about the business of Cutter & Buck, as
24 well as its finances, markets and present and future business prospects via access to
25 internal corporate documents (including Cutter & Buck's operating plans, budgets and
forecasts and reports of actual operations compared thereto), conversations and

1 connections with corporate officers and employees, attendance at Board of Directors'
2 meetings and committees thereof, and via reports and other information provided to him in
3 connection therewith. Defendant Mounger is a direct participant in the wrongdoing
4 complained of herein, in that in his capacity as a member of the Company's Board, he
5 engaged in the illegal acts and practices complained of herein by causing, approving and/or
6 authorizing the improper accounting and reporting of Cutter & Buck's finances, business
7 and prospects, specifically including the Company's improper entries of sales into incorrect
8 periods and inaccurate reporting of sales by distribution channels which caused the
9 Company to improperly recognize revenue for the fiscal years ended 2000, 2001 and 2002,
10 the effect of all of which was to cause Cutter & Buck in August 2002 to admit that it must
11 restate its financial statements for fiscal years 2000, 2001 and 2002, and to reduce its
12 previously reported earnings. Mounger is a citizen of Washington.

13 10. Defendant James C. Towne ("Towne") is, and at all times relevant to the
14 allegations raised herein was, a Director of the Company and a member of the Board's
15 Audit Committee. Because of Towne's position, he knew of the adverse non-public
16 information about the business of Cutter & Buck, as well as its finances, markets and
17 present and future business prospects via access to internal corporate documents (including
18 Cutter & Buck's operating plans, budgets and forecasts and reports of actual operations
19 compared thereto), conversations and connections with corporate officers and employees,
20 attendance at Board of Directors' meetings and committees thereof, and via reports and
21 other information provided to him in connection therewith. Defendant Towne is a direct
22 participant in the wrongdoing complained of herein, in that in his capacity as a member of
23 the Company's Board, he engaged in the illegal acts and practices complained of herein by
24 causing, approving and/or authorizing the improper accounting and reporting of Cutter &
25 Buck's finances, business and prospects, specifically including the Company's improper
entries of sales into incorrect periods and inaccurate reporting of sales by distribution
channels which caused the Company to improperly recognize revenue for the fiscal years

1 ended 2000, 2001 and 2002, the effect of all of which was to cause Cutter & Buck in
2 August 2002 to admit that it must restate its financial statements for fiscal years 2000,
3 2001 and 2002, and to reduce its previously reported earnings. Towne is a citizen of
4 Washington.

5 11. Defendant Harvey N. Jones ("Jones") was, until on or about April 19, 2002,
6 Chairman, Chief Executive Officer, a Director of the Company and a member of the
7 Board's Nominating Committee. Because of Jones' positions, he knew of the adverse non-
8 public information about the business of Cutter & Buck, as well as its finances, markets
9 and present and future business prospects via access to internal corporate documents
10 (including Cutter & Buck's operating plans, budgets and forecasts and reports of actual
11 operations compared thereto), conversations and connections with corporate officers and
12 employees, attendance at Management and Board of Directors' meetings and committees
13 thereof, and via reports and other information provided to him in connection therewith.
14 Defendant Jones is a direct participant in the wrongdoing complained of herein, in that in
15 his capacity as Chairman, CEO and a member of the Company's Board, he engaged in the
16 illegal acts and practices complained of herein by causing, approving and/or authorizing
17 the improper accounting and reporting of Cutter & Buck's finances, business and
18 prospects, specifically including the Company's improper entries of sales into incorrect
19 periods and inaccurate reporting of sales by distribution channels which caused the
20 Company to improperly recognize revenue for the fiscal years ended 2000, 2001 and 2002,
21 the effect of all of which was to cause Cutter & Buck in August 2002 to admit that it must
22 restate its financial statements for fiscal years 2000, 2001 and 2002, and to reduce its
23 previously reported earnings. Jones is a citizen of Washington.

24 12. Defendant Martin J. Marks ("Marks") was, until on or about April 29, 2002,
25 President, Chief Operating Officer ("COO") and a Director of the Company. Because of
Marks' positions, he knew of the adverse non-public information about the business of
Cutter & Buck, as well as its finances, markets and present and future business prospects

1 via access to internal corporate documents (including Cutter & Buck's operating plans,
2 budgets and forecasts and reports of actual operations compared thereto), conversations
3 and connections with corporate officers and employees, attendance at Board of Directors'
4 meetings and committees thereof, and via reports and other information provided to him in
5 connection therewith. Defendant Marks is a direct participant in the wrongdoing
6 complained of herein, in that in his capacity as President, COO and a member of the
7 Company's Board, he engaged in the illegal acts and practices complained of herein by
8 causing, approving and/or authorizing the improper accounting and reporting of Cutter &
9 Buck's finances, business and prospects, specifically including the Company's improper
10 entries of sales into incorrect periods and inaccurate reporting of sales by distribution
11 channels which caused the Company to improperly recognize revenue for the fiscal years
12 ended 2000, 2001 and 2002, the effect of all of which was to cause Cutter & Buck in
13 August 2002 to admit that it must restate its financial statements for fiscal years 2000,
14 2001 and 2002, and to reduce its previously reported earnings. Marks is a citizen of
15 Washington.

16 13. Defendant Stephen S. Lowber ("Lowber") was until on or about August 9,
17 2002, the Vice President and Chief Financial Officer ("CFO") of Cutter & Buck. Because
18 of Lowber's positions, he knew the adverse non-public information about the business of
19 Cutter & Buck, as well as its finances, markets and present and future business prospects
20 via access to internal corporate documents (including Cutter & Buck's operating plans,
21 budgets and forecasts and reports of actual operations compared thereto), conversations
22 and connections with other corporate officers and employees, attendance at management
23 meetings, and via reports and other information provided to him in connection therewith.
24 During the Relevant Period, Lowber participated in the issuance of false and/or misleading
25 statements, including the preparation and/or review of false and/or misleading press
releases and SEC filings. Defendant Lowber is a direct participant in the wrongdoing
complained of herein, in that in his capacity as the Company's CFO, he engaged in the

1 illegal acts and practices complained of herein by causing, approving and/or authorizing
2 the improper accounting and reporting of Cutter & Buck's finances, business and
3 prospects, specifically including the Company's improper entries of sales into incorrect
4 periods and inaccurate reporting of sales by distribution channels which caused the
5 Company to improperly recognize revenue for the fiscal years ended 2000, 2001 and 2002,
6 the effect of all of which was to cause Cutter & Buck in August 2002 to restate its financial
7 statements for fiscal years 2000, 2001 and 2002, and to reduce its previously reported
8 earnings. Lowber is a citizen of Washington.

9 14. The defendants named above in ¶¶ 7-12 are sometimes collectively referred
10 to herein as the "Director Defendants." In addition to the Director Defendants, Stephen S.
11 Lowber was the former senior-most executive of the Company directly responsible for the
12 Company's financial reporting, and was therefore responsible for causing the Company to
13 issue false and misleading statements during the Relevant Period. The defendants named
14 above in ¶¶ 7-13 are sometimes collectively referred to herein as the "Individual
15 Defendants." By reason of their positions and their ability to control the business and
16 corporate affairs of Cutter & Buck, the Individual Defendants owed Cutter & Buck and its
17 shareholders fiduciary obligations of fidelity, trust, loyalty, good faith, fair dealing and due
18 care, and were required to use their utmost ability to control and manage Cutter & Buck in
19 a fair, just and equitable manner and to act in furtherance of the best interests of Cutter &
20 Buck and all of its shareholders. These obligations include the duty to investigate, conduct
21 due diligence and to maximize the value to be received by Cutter & Buck's public
22 shareholders. The Individual Defendants breached their obligations by causing, approving
23 and/or authorizing the improper accounting and reporting of Cutter & Buck's finances,
24 business and prospects, specifically including the Company's improper entries of sales into
25 incorrect periods and inaccurate reporting of sales by distribution channels, which caused
the Company to improperly recognize revenue for the fiscal years ended 2000, 2001 and
2002, the effect of all of which was to cause Cutter & Buck in August 2002 to admit that it

1 must restate its financial statements for fiscal years 2000, 2001 and 2002 and to reduce its
2 previously reported earnings.

3 SUMMARY OF ACTION

4 15. Cutter & Buck designs and markets upscale men's and women's sportswear
5 and outerwear under the Cutter & Buck brand. The Company sells its products primarily
6 through golf pro shops and resorts, corporate accounts, specialty retail and Company-
7 owned retail stores. This action results from the Individual Defendants causing Cutter &
8 Buck's to report false financial results and false statements about Cutter & Buck's finances,
9 business and prospects, specifically including the Company's improper entries of sales into
10 incorrect periods and inaccurate reporting of sales by distribution channels, which caused
11 the Company to improperly recognize revenue for the fiscal years ended April 30, 2000,
12 April 30, 2001, and April 30, 2002, causing the Company's stock to trade at artificially
13 inflated levels. Cutter & Buck has now admitted that its revenue and earnings for fiscal
14 years 2000, 2001 and 2002 were materially overstated, will have to be restated, and should
15 not have been relied upon by investors.

16 DUTIES OF THE INDIVIDUAL DEFENDANTS

17 16. Defendants owed fiduciary duties of good faith and fair dealing to Cutter &
18 Buck and its public shareholders. To discharge their duties, the Individuals Defendants
19 were required to independently and effectively supervise and control Cutter & Buck's
20 executives and Cutter & Buck's policies, practices, controls and financial affairs and to:

21 (a) Act in the best interests of Cutter & Buck and prevent any abuse of
22 control by other top executives in the conduct of the business and affairs of Cutter & Buck;

23 (b) Govern Cutter & Buck to utilize its resources in a manner to benefit
24 the Company and its public shareholders and not the personal interests or preferences of
25 defendants;

(c) Refrain from abusing their positions of control;

(d) Not favor their own interests at the expense of Cutter & Buck;

(e) In good faith oversee, supervise and direct the business and affairs of Cutter & Buck and its executives in accordance with the applicable laws;

(f) Upon receiving notice of improper conduct to take steps to correct or remedy that conduct;

(g) Exercise reasonable control and supervision over the officers and employees of Cutter & Buck; and

(h) Honestly communicate with Cutter & Buck's shareholders.

17. Thus, each of the Individual Defendants owed Cutter & Buck and its public shareholders obligations of candor, fidelity and loyalty, and not to attempt to frustrate or impede the maximization of shareholder value in order to obtain any improper monetary benefit in their capacity as an officer and/or director.

18. Purportedly in exchange for their loyalty and fidelity, according to the Company's recent Proxy filing, defendant Jones, the senior-most officer and employee-director of the Company, and Lowber, the Company's CFO, received very significant compensation packages, excluding stock options, from Cutter & Buck during FY:99, 00 and 01, as follows:

Name	Year	Salary (\$)	Bonus (\$)	All Other Compensation	Total Compensation
Jones	2001	288,686	0	360	289,046
	2000	272,729	0	384	273,113
	1999	264,625	50,500	384	315,509
Lowber	2001	168,857	0	360	169,217
	2000	159,521	0	384	159,905
	1999	150,042	22,750	384	173,176

19. In addition, purportedly in exchange for their loyalty and fidelity, the non-employee Director Defendants of the Company also received lucrative compensation from

1 the Company to ensure their duties of good faith and candor to the shareholders of the
2 Company. According to the Company's recent Proxy Statement, these non-employee
3 directors received very significant compensation packages from Cutter & Buck, as follows:

4 DIRECTOR COMPENSATION

5 The following fees are paid to directors who are not one of our
6 officers or employees:

7 Annual board of directors retainer \$12,000
8 Attendance for each board of directors \$1,000
per meeting
Attendance for each committee meeting \$500

9 In addition, directors who are not one of our officers or employees
10 receive annual option grants to purchase 7,500 shares of our common stock
at the fair market value of the common stock on the date of grant. Those
11 individuals also receive a quarterly \$500 clothing allowance towards the
purchase of Cutter & Buck clothing.

12 All directors are entitled to reimbursement for expenses incurred in
traveling to and from board meetings.

13 20. Each Officer and Director of Cutter & Buck owed Cutter & Buck and its
14 public shareholders the duty to exercise a high degree of due care, loyalty and diligence in
15 the management and administration of the affairs of the Company, as well as in the use and
16 preservation of its property and assets.

17 21. The conduct of Cutter & Buck's Directors complained of herein involves a
18 knowing and culpable violation of their obligations as Directors of Cutter & Buck, the
19 absence of good faith on their part, and a knowing reckless or negligent disregard for their
20 duties to the Company and its shareholders, which the Directors were aware or should have
21 been aware posed a risk of serious injury to the Company.

22 22. The conduct of the Individual Defendants who caused, approved and/or
23 authorized the improper accounting and reporting of Cutter & Buck's finances, business
24 and prospects, specifically including the Company's improper entries of sales into incorrect
25 periods and inaccurate reporting of sales by distribution channels, which caused the
Company to improperly recognize revenue for the fiscal years ended 2000, 2001 and 2002,

1 the effect of all of which was to cause Cutter & Buck in August 2002 to admit that it must
2 restate its financial statements for fiscal years 2000, 2001 and 2002 and to reduce its
3 previously reported earnings, has been ratified by Cutter & Buck's Board, and constitutes a
4 breach of the Directors' duties. Each Director has failed to take any action against
5 themselves or the Company's other officers and/or Directors for the violations complained
6 of herein.

7 23. Each Individual Defendant is sued individually in his or her respective
8 capacity as an officer and/or Director of Cutter & Buck. The liability of each arises from
9 the fact that each participated in the activities complained of herein at the expense of
10 Cutter & Buck.

11 24. Plaintiff alleges herein that the Individual Defendants, separately and
12 together, caused, approved and/or authorized the improper accounting and reporting of
13 Cutter & Buck's finances, business and prospects, specifically including the Company's
14 improper entries of sales into incorrect periods and inaccurate reporting of sales by
15 distribution channels, which caused the Company to improperly recognize revenue for the
16 fiscal years ended 2000, 2001 and 2002, the effect of all of which was to cause Cutter &
17 Buck in August 2002 to admit that it must restate its financial statements and to reduce its
18 previously reported earnings, and thereby violated the fiduciary duties owed to Cutter &
19 Buck and its public shareholders, including their duties of loyalty, good faith and
20 independence. Defendants' actions were carried out at the expense of and to the detriment
21 of Cutter & Buck.

22 25. As the allegations herein demonstrate, the Individual Defendants have
23 failed to act properly relating to the business of the Company, and, therefore, the
24 Individual Defendants, as a matter of law, have breached their fiduciary duties of good
25 faith and fair dealing owed to Cutter & Buck.

26 26. The Individual Defendants failed to provide oversight of Cutter & Buck's
accountants and auditors to ensure that sales transactions, specifically including the

1 Company's improper entries of sales into incorrect periods and inaccurate reporting of
 2 sales by distribution channels, which caused the Company to improperly recognize
 3 revenue for the fiscal years ended 2000, 2001 and 2002. As a direct result of the
 4 Individual Defendants' illegal acts and practices, on August 12, 2002, the Individual
 5 Defendants were forced to admit that the Company must restate its financial statements for
 6 fiscal years 2000, 2001 and 2002 due to the defendants' improper revenue recognition that
 7 resulted from the entries of sales into incorrect periods and inaccurate reporting of sales by
 8 distribution channels.

9 IMPROPER STATEMENTS

10 27. On June 22, 2000, after the market closed, the Individual Defendants caused
 11 Cutter & Buck to issue a press release entitled, "Cutter & Buck Reports Records Fiscal
 12 2000 Sales and Earnings." The press release stated in part:

13 Cutter & Buck, Inc. today reported record results for the fiscal year
 ended April 30, 2000. Operating highlights are as follows:

14 FY 2000 HIGHLIGHTS:

- 15 - Net sales totaled \$152.5 million, 42% ahead of last year's \$107.3 million
- 16 - Net income grew to \$10.6 million, up 33% from \$8.0 million in FY 1999
- 17 - Net income per diluted share totaled \$1.06 compared to \$0.94 last year (a)
- 18 - Percentage growth in inventory was less than 70% of annual sales growth
- 19 - Gross margins were 44.3%, 120 basis points ahead of FY 1999
- 20
- 21

22 FOURTH QUARTER HIGHLIGHTS:

- 23 - Net sales grew 35% to \$54.6 million from \$40.4 million in the same quarter last year
- 24 - Net income increased 27% to \$5.8 million from \$4.6 million reported for the same quarter last year
- 25 - Net income per diluted share was \$0.55 compared to \$0.53 in the same quarter last year (a)

1 - Gross margins were 44.6%, 60 basis points ahead of last year's
2 fourth quarter

3 (a) Current year per share information includes a 24% increase
4 (1,955,000 shares) in the number of shares outstanding as a result of the
5 company's follow-on stock offering last summer.

6 "I am pleased with the company's ability to leverage our prestigious
7 position in the worldwide golf market. Over the past few years, we have
8 expanded our specialty retail division and strategically placed company-
9 owned retail stores around the country. Both channels showcase our
10 fashion collections in a very powerful manner and we have achieved
11 outstanding growth in each," said Harvey Jones, Chairman and Chief
12 Executive officer. "Benefiting from our growing brand awareness, our
13 corporate channel continues to produce very strong results with sales
14 growing 73% over last year."

15 28. On September 7, 2000, the Individual Defendants caused Cutter & Buck to
16 issue a press release entitled, "Cutter & Buck Reports First Quarter Sales and Earnings;
17 Net Income Increases 27% on 34% Growth in Net Sales." The press release stated in part:

18 Cutter & Buck, Inc. today reported results for the first quarter of
19 fiscal 2001, which ended July 31, 2000.

20 FIRST QUARTER HIGHLIGHTS:

21 - Net sales increased 34% to \$39.0 million, compared to last year's
22 \$29.2 million

23 - Gross margins were 44.9%, 110 basis points ahead of the same
24 quarter last year

25 - Net income increased 27% to \$1.3 million, compared to \$1.0 million
in the same quarter last year

 - Net income per diluted share totaled \$.13 compared to \$.12 last year
(a)

(a) Per share information for the first quarter of FY 2001 includes a
24% increase (1,955,000 shares) in the number of shares outstanding as a
result of the Company's follow-on stock offering near the end of the first
quarter of FY 2000.

"At our fashion trade shows during the past two months, our
specialty retail sales team worked with record numbers of buyers for both
our men's and women's collections," stated Harvey Jones, Chief Executive
Officer. "We believe the acceptance of our designs and brand is clearly
demonstrated by the 69% growth that our specialty retail channel
experienced during the first quarter."

29. On December 7, 2000, the Individual Defendants caused Cutter & Buck to issue a press release entitled, "Cutter & Buck Reports Second Quarter Net Income Up 26%; Provides Outlook for the Second Half of Fiscal Year 2001." The press release stated in part:

Cutter & Buck, Inc. today reported results for the second quarter of fiscal 2001, which ended October 31, 2000.

SECOND QUARTER HIGHLIGHTS:

- Net sales increased 25% to \$46.1 million, compared to last year's \$36.9 million
- Gross margins were 44.6%, 81 basis points ahead of the same quarter last year
- Net income increased 26% to \$3.1 million, compared to \$2.4 million in the same quarter last year
- Net income per diluted share totaled \$0.29, compared to \$0.23 last year

30. On February 6, 2001, the Individual Defendants caused Cutter & Buck to issue a press release entitled, "Cutter & Buck Reports Preliminary 3rd Quarter Fiscal Year 2001 Results." The press release stated in part:

Cutter & Buck, Inc. announced today it expects to report net sales for the third quarter ended January 31, 2001 of approximately \$32 million compared to \$31.8 million for the same quarter a year ago. The company also expects to report a diluted net loss per share for the third quarter in the range of \$0.07 to \$0.10, and diluted net income per share for the nine months ended January 31, 2001 in the range of \$0.31 to \$0.34. The company's third quarter net loss resulted from lower than anticipated sales in the corporate and golf channels, which management attributed primarily to the sudden downturn in the U.S. economy and unusually cold winter weather in the Southern United States, respectively. "The third quarter has historically been a small one for us, and so the shortfall in sales quickly translated into losses. We expect to achieve increased sales growth and return to profitability in our seasonally strong fourth quarter," stated Harvey Jones, Chairman & CEO. "Although third quarter sales fell short of our expectations, we remain confident in the strength of our multi-channel distribution strategy and of the Cutter & Buck brand. We continue to experience brand momentum as evidenced by the enthusiastic reception to our new Fall line at the recent PGA show in Orlando."

Inventory levels at the end of the third quarter, our seasonal peak, increased to approximately \$61 million, and are higher than expected due to the unanticipated sales shortfall. The company remains in a solid financial

1 position with over \$5 million in cash and approximately \$21 million
2 available under its \$55 million credit facility.

3 31. On March 9, 2001, the Individual Defendants caused Cutter & Buck to
4 issue a press release entitled, "Cutter & Buck Reports Net Loss in the Third Quarter Fiscal
5 Year 2001." The press release stated in part:

6 Cutter & Buck, Inc. today reported sales and earnings for its third
7 quarter and nine months ended January 31, 2001.

8 Third Quarter Highlights:

- 9 - Net sales increased 2% to \$32.4 million, compared to last year's
10 \$31.8 million
- 11 - Gross margins were 45.8%, 94 basis points ahead of the same
12 quarter last year
- 13 - Net loss was \$963 thousand, compared to net income of \$1.4 million
14 in the same quarter last year
- 15 - Net loss per diluted share was \$0.09 compared to net income per
16 diluted share of \$0.13 last year

17 Nine Months Year-To-Date Highlights:

- 18 - Net sales increased 20% to \$117.5 million, compared to last year's
19 \$97.9 million
- 20 - Gross margins were 45.0%, 90 basis points ahead of the same period
21 last year
- 22 - Net income decreased 29% to \$3.4 million from \$4.8 million in the
23 same period last year
- 24 - Net income per diluted share totaled \$0.32, compared to \$0.49 for
25 the same period last year

32. On June 21, 2001, the Individual Defendants caused Cutter & Buck to issue
a press release entitled, "Cutter & Buck Reports Fourth Quarter and Fiscal Year 2001
Results." The press release stated in part:

Cutter & Buck, Inc. today reported sales and earnings for its fourth
quarter and fiscal year ended April 30, 2001.

Fourth Quarter Results:

- Net sales decreased 1.8% to \$53.6 million, compared to \$54.6
million for the same quarter last year

- Gross margins were 35.1%, compared to 44.6% in last year's fourth quarter
- Net income was \$292 thousand, compared to net income of \$5.8 million in the same quarter last year
- Net income per diluted share was \$0.03 compared to net income per diluted share of \$0.55 last fourth quarter

Fiscal Year 2001 Results:

- Net sales increased 12.2% to \$171.1 million, compared to \$152.5 million in fiscal year 2000
- Gross margins were 41.9%, compared to 44.3% in fiscal year 2000
- Net income decreased 65.2% to \$3.7 million from \$10.6 million in fiscal year 2000
- Net income per diluted share was \$0.35, compared to \$1.06 last fiscal year

* * *

Earnings Outlook:

For fiscal year 2002 the company expects annual earnings per share in the range of \$0.31 to \$0.38 driven by flat to high-single digit revenue growth and a 50 to 100 percent basis point improvement in gross margins, due to our higher margin consumer direct business accounting for a larger portion of total sales.

33. On September 13, 2001, the Individual Defendants caused Cutter & Buck to issue a press release entitled, "Cutter & Buck Reports First Quarter Fiscal Year 2002 Operating Results." The press release stated in part:

Cutter & Buck, Inc. today reported sales and earnings for its first quarter fiscal year 2002, ended July 31, 2001.

First Quarter Results:

- Net sales decreased 3.3% to \$37.7 million, compared to \$39.0 million for the same quarter last year
- Gross margins were 43.7%, compared to 44.9% in last year's first quarter
- Net loss was \$1.4 million, compared to net income of \$1.3 million in the same quarter last year

- 1 – Net loss per diluted share was \$0.13 compared to net income per
- 2 diluted share of \$0.13 last year
- 3 – Positive free cash flow (operating cash flow less capital
- 4 expenditures) of \$6.8 million compared to a negative \$3.4 million
- 5 during the first quarter last year

6 "Our results for the first quarter came in at the high end of our
 7 expectations, which keeps us on track to achieve our stated goals for fiscal
 8 year 2002," commented Harvey Jones, Chairman & CEO. "We still see full
 9 year earnings per share in the range of \$0.31-\$0.38 and positive free cash
 10 flow for the year. During the first quarter, sales to our golf and corporate
 11 channels declined 5.3% and 4.3% respectively, compared to a year ago, as a
 12 result of unfavorable economic and industry conditions. Sales to our
 13 specialty retail channel posted at 14.1% decrease from the first quarter a
 14 year ago, primarily due to the timing of shipments occurring later in the Fall
 15 season."

16 34. On December 11, 2001, the Individual Defendants caused Cutter & Buck to
 17 issue a press release entitled, "Cutter & Buck Reports Second Quarter Fiscal Year 2002
 18 Operating Results; Acts to Strengthen Core Businesses." The press release stated in part:

19 Cutter & Buck today reported sales and earnings for its second
 20 quarter fiscal year 2002, ended October 31, 2001.

21 Second Quarter Results:

- 22 – Net sales decreased 6.9% to \$42.9 million, compared to \$46.1
- 23 million for the same quarter last year.
- 24 – Gross margins were 39.5%, compared to 44.6% for the same quarter
- 25 last year.
- 26 – Net income was \$225 thousand, compared to net income of \$3.1
- 27 million for the same quarter last year.
- 28 – Net income per diluted share was \$0.02 compared to net income per
- 29 diluted share of \$0.29 for the same quarter last year.
- 30 – Free cash flow (operating cash flow less capital expenditures) was
- 31 \$11.1 million compared to \$3.2 million during the same quarter last
- 32 year.

33 Six Months Year-To-Date Results:

- 34 – Net sales decreased 5.3% to \$80.6 million, compared to \$85.1
- 35 million for the same period last year.
- 36 – Gross margins were 41.5%, compared to 44.7% in the same period
- 37 last year.

- 1 – Net loss of \$1.1 million, compared to net income of \$4.4 million in
2 the same period last year.
- 3 – Net loss per diluted share of \$0.11, compared to net income per
4 diluted share of \$0.42 in the same period last year.
- 5 – Free cash flow (operating cash flow less capital expenditures) was
6 \$18 million compared to \$0 in the same period last year.

7 35. On March 14, 2002, the Individual Defendants caused Cutter & Buck to
8 issue a press release entitled, "Cutter & Buck Reports Third Quarter Fiscal Year 2002
9 Operating Results: Records Restructuring and Asset Impairment Charges Related to
10 Underperforming Businesses." The press release stated in part:

11 Cutter & Buck, Inc. today reported sales and earnings for its third
12 quarter fiscal year 2002, ended January 31, 2002.

13 For the third quarter, net sales increased 0.8% to \$32.6 million from
14 \$32.4 million in the third quarter of last year. Net loss for the period was
15 \$8.4 million or \$0.79 per share, compared to a net loss of \$963 thousand or
16 \$0.09 per share in the same period last year. Excluding \$7.4 million, which
17 represents the pre tax amount recorded in this quarter for the previously
18 announced restructuring and asset impairment charges and excluding \$2.9
19 million of pre-tax inventory write down included in cost of sales, also
20 relating to the restructuring and asset impairment charges, the net loss for
21 the quarter would have been \$1.2 million or \$0.11 per share. Gross margin
22 as a percentage of net sales was 34.1% in the third quarter compared to
23 45.8% in the same period last year. Excluding the inventory write down
24 mentioned above, gross margin was 42.9% of net sales....

25 For the nine month period, net sales decreased 3.6% to \$113.3
million from \$117.5 million in the same period last year. Net loss for the
period was \$9.5 million or \$0.90 per share, compared to net income of \$3.4
million or \$0.32 per diluted share in the same period last year. Excluding
the restructuring and asset impairment charges, net loss was \$2.3 million or
\$0.22 per share. Gross margin as a percentage of net sales was 39.4% in the
nine month period compared to 45.0% in the same period last year.
Excluding the inventory write down mentioned above, gross margin was
41.9% of net sales.

"We decided to streamline our business and to stop investing in
some of our newer initiatives whose current sales do not justify their
expense levels," said Marty Marks, President and COO. "These newer
initiatives have absorbed considerable management time and attention, and
we are now re-focusing on the areas where we have shown solid results in
the past. We are also continuing to invest in our women's lines, and in
product extensions."

"Our balance sheet remains strong," added Steve Lowber, Vice
President & CFO. "We generated \$1.3 million of free cash flow during the

1 third quarter and \$19 million during the first nine months of fiscal year
2 2002. Our investment in inventory before the restructuring and asset
3 impairment charge decreased by \$10.5 million to \$50.4 million from \$60.9
4 million as of January 31, 2001. Classics merchandise, which we sell from
5 season-to-season, represents approximately half of our current inventory.
6 We plan to further reduce our inventories by over \$10 million during the
7 fourth quarter to end our fiscal year 2002 with inventories more closely
8 aligned with sales."

9
10 Restructuring and Asset Impairment Charge

11 "As reported in our second quarter release, we are taking actions to
12 reduce costs and re-focus on our core businesses," continued Lowber. "The
13 restructuring and asset impairment charge is generally in line with what we
14 expected and communicated in our December 11, 2001 earnings release.
15 The total charge is expected to amount to \$8.2 to \$8.4 million after tax, of
16 which \$7.2 million has been recorded in the third quarter. The balance of
17 the charge will be recorded in the fourth quarter.

18 We are closing our own operations in Europe, and plan to use a
19 licensee to grow that business. In the third quarter, we wrote down our
20 European assets in the amount of \$3.5 million after tax. We anticipate an
21 additional write-down of \$1.0 to \$1.2 million after tax in the fourth quarter.
22 The closure of our direct operations in Europe will eliminate a drag on
23 earnings that has amounted to approximately \$0.06 per share during the past
24 two years. Once we begin operations with a licensee, we expect to replace
25 an earnings drag with profit contributor beginning in fiscal year 2003.

1 We have taken write-downs amounting to \$1.8 million on five
2 company-owned stores that have not performed up to our expectations. The
3 \$1.8 million includes costs to close three locations at their respective escape
4 dates. This will reduce fiscal year 2003 operating expense by
5 approximately \$500 thousand and recognizes now, the financial impact of
6 anticipated store closures in fiscal year 2004. We are also continuing to
7 examine our retail business.

8 We decided to consolidate and restructure our women's line sales
9 forces, in order to strengthen the sales effort for our business and drive
10 better economics. This accounted for \$1.1 million of the charge and is
11 expected to eliminate an approximate \$.04 per share drag on earnings per
12 share in fiscal year 2003 and beyond.

13 In order to expedite our withdrawal from the golf shoe business and
14 quickly convert the remaining inventory to cash, we have written down our
15 shoe inventory in the amount of \$0.8 million. We have received orders for
16 most of the shoe inventory and expect to dispose of it by the end of our
17 fourth quarter fiscal year 2002.

18 Over 80 percent of the charge recorded in the third quarter is non-
19 cash, and on an after tax basis the charge is slightly cash positive. We
20 believe the measures taken to streamline our operations enable us to focus
21 more intensively on our core strengths and position us for a solid earnings
22 rebound in fiscal year 2003."

1 Earnings Outlook:

2 As mentioned above, the fourth quarter results are expected to
3 include an additional charge of \$1.0 to \$1.2 million after tax related to the
4 transition of our European operations through April 30, 2002. For fiscal
5 year 2002, the company expects a moderate decline in revenue in the low to
6 middle single digit range and a net loss per share in the range of \$0.75 to
7 \$0.79 including the restructuring and asset impairment charges. For fiscal
8 2002, the company expects earnings per share in the range of \$0.01 to
9 \$0.03, excluding the restructuring and asset impairment charges.

10 36. On April 19, 2002, the Individual Defendants caused Cutter & Buck to
11 issue a press release entitled, "Cutter & Buck CEO Resigns; Company Updates Fourth
12 Quarter Earnings Outlook." The press release stated in part:

13 Cutter & Buck, Inc. today announced that Harvey Jones has
14 resigned both as Chairman and Chief Executive Officer and as member of
15 the Board of Directors and will remain with the company as Founder and
16 Brand Strategist. Board member Fran Conley has been appointed interim
17 Chairman of the Board and CEO, and Marty Marks, President, will
18 concentrate on the priority areas of the business, including international.

19 "I've had a great run," said Jones, but it's time for a change – for me
20 and for Cutter & Buck. I'm proud of what I've been able to accomplish
21 since this company was formed twelve years ago – strong brand loyalty
22 from out customers, a quality line of products and a group of outstanding
23 employees. As our company has evolved, so too should its leadership. The
24 time is right for that new leadership to take Cutter & Buck to the next
25 level." "Harvey brought this company from its beginning to where it is
today," said interim CEO Conley. "Very few founders accomplish what
Harvey has accomplished, developing an idea into an international brand,
building sales in excess of \$150 million and a company of over 700
employees. We have all benefited from his vision and his leadership. We
are pleased Harvey will continue to be involved with the company,
contributing his vision, energy and ideas in his new role as Founder and
Brand Strategist."

Interim CEO Fran Conley has been involved with the Company
since 1990 as a board member and venture capitalist. She is president of
Roanoke Capital, Ltd, and a board member of Coinstar and R.E.I. She has
previously handled CEO-transition responsibilities at Edmark Corp, Data
I/O, and Etcetera Inc. "I look forward to working with the fine people of
Cutter & Buck," said Conley. "We will be doing a nationwide search for a
CEO to guide this company through its next phase."

Cutter & Buck also announced that for the current quarter ending
April 30, 2002 sales are expected to be in the range of \$52 to \$54 million.
For the quarter, the Company now expects a net loss in the range of \$500
thousand to \$1 million or \$0.05 to \$0.10 per share, after the previously-
announced restructuring charge of approximately \$1.2 million. "Our gross
margins are lower than we had projected," said Steve Lowber, Vice

1 President and CFO, "as we have more aggressively worked off our excess
2 inventories which are now expected to come down by over \$15 million
3 during the quarter. We will also be incurring some additional costs related
4 to the changes announced above."

5 37. On June 20, 2002, the Individual Defendants caused Cutter & Buck to issue
6 a press release entitled, "Cutter & Buck Reports Fiscal Year and Fourth Quarter 2002
7 Operating Results, Provides Fiscal Year 2003 Guidance." The press release stated in part:

8 Cutter & Buck, Inc. today reported sales and earnings for its fiscal
9 year and fourth quarter ended April 30, 2002.

10 For the year, net sales were \$167.7 million and the net loss was
11 \$10.8 million or \$1.02 per share after restructuring charges. This compares
12 to fiscal year 2001 net sales of \$171.1 million and a net income of \$3.7
13 million or \$0.35 per share.

14 For the fourth quarter, net sales were \$54.5 million and the net loss
15 was \$1.3 million or \$0.13 per share. This compares to fourth quarter fiscal
16 year 2001 net sales of \$53.6 million and net income of \$0.3 million or \$0.03
17 per share. For fiscal year 2003 the company expects sales in the range of
18 \$157 million to \$162 million, and net income of \$0.5 to \$1.1 million or
19 \$0.05 to \$0.10 per share. This net income estimate is after an expected first
20 quarter fiscal year 2003 charge of approximately \$2.5 million net of tax, or
21 \$0.24 per share, related to excess warehouse space.

22 "The fiscal year 2002 loss had several clear causes," said Fran
23 Conley, CEO. "We have already acted to change these factors, and we
24 expect Cutter & Buck to be profitable in fiscal year 2003."

25 38. On August 12, 2002, the Individual Defendants caused Cutter & Buck to
issue a press release entitled, "Cutter & Buck Announces Discovery of Accounting
Irregularities in Fiscal Years 2000 and 2001; Reports Resignation of Chief Financial
Officer; Announces Preliminary First Quarter Fiscal Year 2003 Operating Results." The
press release stated in part:

CEO Fran Conley today announced that the Company plans to restate its
audited financial statements for the fiscal years ended April 30, 2000 and
April 30, 2001. The restatements will correct entries of sales into incorrect
periods, and inaccurate reporting of sales by distribution channels.
Although the matter is still under review, the Company does not have any
reason to believe that its current net worth will be affected or that there will
be any change in the Company's total sales for the past three years.

The adjustments stem from certain transactions that were discovered
by Conley following her recent appointment as Chief Executive Officer. A
Committee formed by Conley, and made up of her and the Board's Audit

1 Committee is conducting an investigation of accounting issues with respect
 2 to revenue recognition for the fiscal years ended April 30, 2000 and
 3 April 30, 2001 and its potential impact on the past fiscal year ended
 4 April 30, 2002. The Committee has retained special outside counsel to
 5 assist with this investigation. *The investigation was triggered by shipments*
 6 *of approximately \$5.8 million to three distributors during fiscal year 2000*
 7 *which had been recorded as sales of inventory for that year but were*
 8 *evidently made on a consignment basis. These shipments should not have*
 9 *been recorded as sales until the merchandise was resold by the*
 10 *distributors. After it became apparent to the Company's former*
 11 *management that the three distributors would not be able to sell most of*
 12 *this product, the Company arranged for the merchandise to be returned to*
 13 *Cutter & Buck at the end of fiscal year 2001. That reacquisition was*
 14 *accounted for as a reduction in sales during fiscal year 2001.*

15 *The business transactions at issue were not disclosed to the*
 16 *Company's then outside members of its Board of Directors and were not*
 17 *discussed with the Company's auditors. Rather, there is evidence that the*
 18 *Company's standard accounting practices and controls were*
 19 *circumvented and that sales returns in fiscal 2001 were intentionally mis-*
 20 *allocated to several of the Company's business lines instead of the*
 21 *business line under which those sales were originally booked. The*
 22 *Committee believes that some members of the Company's former*
 23 *management may have received increased incentive compensation as a*
 24 *result of the overstated FY 2000 financial results.*

25 "The Board has always been committed to operating the Company
 with the highest levels of integrity," said Conley. "We are appalled at this
 discovery and we are determined that nothing like this will happen at Cutter
 & Buck in the future. We want this investigation to root out the full extent
 of any financial reporting issues. I am absolutely committed, as is the
 current leadership team, to strengthening our Company's values and
 building the systems we need. Cutter & Buck will be the kind of company
 that our shareholders and employees want it to be – rooted in integrity, and
 bolstered with strong systems and controls.

"The managers responsible for these business decisions and those
 who were responsible for the integrity of the Company's financial
 statements no longer have any role with the Company," said Conley. "They
 include the former Chairman and Chief Executive Officer, the former
 President and Chief Operating Officer, the former Chief Financial Officer,
 the former Manager of Corporate Sales and the former Controller."

On Friday, the Company accepted the resignation of Stephen S.
 Lowber, the Company's Chief Financial Officer. Lowber joined the
 Company in 1997.

The Committee is working to conclude its investigation
 expeditiously and the Company currently anticipates filing its annual report
 on Form 10-K for the fiscal year ended April 30, 2002 by mid September.
The Company will also restate its financial results for the relevant
quarters during the periods in question and may need to correct other
sales entries which more properly should have been reported in later

1 *periods. As a result, investors should not rely on the currently reported*
2 *financial statements and reports for the fiscal years 2000 through 2002.*

3 Due to the discovery of the accounting irregularities, the Company's
4 auditor, Ernst & Young, believes there is a material weakness in the
5 Company's internal controls and operations. The Committee is reviewing
6 the matter as part of its investigation and will recommend that the Company
7 immediately remedy any deficiencies. The Company has informed the staff
8 of the SEC of its internal investigation and plans to keep the SEC informed
9 of its progress.

10 39. In order to inflate the price of Cutter & Buck's stock, the Individual
11 Defendants now admitted that throughout the Relevant Period and before, the Individual
12 Defendants caused the Company to falsely report its financial results which requires a
13 restatement for fiscal years 2000, 2001 and 2002.

14 **CUTTER & BUCK'S FALSE FINANCIAL REPORTING**
15 **DURING THE RELEVANT PERIOD**

16 40. The Individual Defendants have now admitted that they had inappropriately
17 caused Cutter & Buck to misstate the Company's financial results due to improper revenue
18 recognition, specifically including the Company's improper entries of sales into incorrect
19 periods and inaccurate reporting of sales by distribution channels, which caused the
20 Company to improperly recognize revenue for the fiscal years ended 2000, 2001 and 2002,
21 and caused Cutter & Buck to restate those results to remove improperly reported revenues,
22 such that the Company's financial statements, for fiscal years 2000, 2001 and 2002, were
23 not a fair presentation of actual results and were presented in violation of Generally
24 Accepted Accounting Principles ("GAAP") and SEC rules.

25 41. GAAP are those principles recognized by the accounting profession as the
conventions, rules and procedures necessary to define accepted accounting practice at a
particular time. SEC Regulation S-X (17 C.F.R. §210.4-01(a)(1)) states that financial
statements filed with the SEC which are not prepared in compliance with GAAP are
presumed to be misleading and inaccurate, despite footnotes or other disclosures.
Regulation S-X requires that interim financial statements must also comply with GAAP,
with the exception that interim financial statements need not include disclosure which

1 would be duplicative of disclosures accompanying annual financial statements. 17 C.F.R.
2 §210.10-01(a).

3 42. GAAP, as described by FASB Statement of Financial Accounting Concepts
4 No. 5, states that income should not be recorded unless it has been both earned and
5 realizable or collectible. GAAP as set forth in FASB Statement of Financial Accounting
6 Standard No. 5 requires that liabilities be recorded when a loss is probable and can be
7 reasonably estimated.

8 43. The Individual Defendants are now forced to admit that they caused Cutter
9 & Buck to improperly recognize revenue and fail to properly record its liabilities for fiscal
10 years 2000, 2001 and 2002. The fact that Cutter & Buck has mentioned the likelihood of
11 restatement of its past financial statements is an admission that the financial statements
12 originally issued were false and that the overstatement of revenues and income was
13 material. Pursuant to GAAP, as set forth in Accounting Principles Board Opinion ("APB")
14 No. 20, the type of restatement announced by Cutter & Buck was to correct for material
15 errors in its previously issued financial statements. See APB No. 20, ¶¶7-13. The
16 restatement of past financial statements is a disfavored method of recognizing an
17 accounting change as it dilutes confidence by investors in the financial statements, it
18 makes it difficult to compare financial statements and it is often difficult, if not impossible,
19 to generate the numbers when restatement occurs. See APB No. 20, ¶14. Thus, GAAP
20 provides that financial statements should only be restated in limited circumstances, *i.e.*,
21 when there is a change in the reporting entity, there is a change in accounting principles
22 used or to correct an error in previously issued financial statements. Cutter & Buck's
23 restatement was not due to a change in reporting entity or a change in accounting principle,
24 but rather to errors in previously issued financial statements. Thus, the restatement is an
25 admission by the Individual Defendants that the Company's previously issued financial
results and its public statements regarding those results were false and misleading.

1 44. The fact that the Individual Defendants used the term "irregularities" in
2 Cutter & Buck's releases indicates the misstatements were intentional. According to
3 accounting literature, irregularities refers specifically to intentional misstatements.

4 45. Due to these accounting improprieties, the Individual Defendants caused the
5 Company to present its financial results and statements in a manner which violated GAAP,
6 including the following fundamental accounting principles:

7 (a) The principle that interim financial reporting should be based upon
8 the same accounting principles and practices used to prepare annual financial statements
9 was violated (APB No. 28, ¶10);

10 (b) The principle that financial reporting should provide information
11 that is useful to present and potential investors and creditors and other users in making
12 rational investment, credit and similar decisions was violated (FASB Statement of
13 Concepts No. 1, ¶34);

14 (c) The principle that financial reporting should provide information
15 about the economic resources of an enterprise, the claims to those resources, and effects of
16 transactions, events and circumstances that change resources and claims to those resources
17 was violated (FASB Statement of Concepts No. 1, ¶40);

18 (d) The principle that financial reporting should provide information
19 about how management of an enterprise has discharged its stewardship responsibility to
20 owners (stockholders) for the use of enterprise resources entrusted to it was violated. To
21 the extent that management offers securities of the enterprise to the public, it voluntarily
22 accepts wider responsibilities for accountability to prospective investors and to the public
23 in general (FASB Statement of Concepts No. 1, ¶50);

24 (e) The principle that financial reporting should provide information
25 about an enterprise's financial performance during a period was violated. Investors and
creditors often use information about the past to help in assessing the prospects of an
enterprise. Thus, although investment and credit decisions reflect investors' expectations

1 about future enterprise performance, those expectations are commonly based at least partly
2 on evaluations of past enterprise performance (FASB Statement of Concepts No. 1, ¶42);

3 (f) The principle that financial reporting should be reliable in that it
4 represents what it purports to represent was violated. That information should be reliable
5 as well as relevant is a notion that is central to accounting (FASB Statement of Concepts
6 No. 2, ¶¶58-59);

7 (g) The principle of completeness, which means that nothing is left out
8 of the information that may be necessary to insure that it validly represents underlying
9 events and conditions was violated (FASB Statement of Concepts No. 2, ¶79); and

10 (h) The principle that conservatism be used as a prudent reaction to
11 uncertainty to try to ensure that uncertainties and risks inherent in business situations are
12 adequately considered was violated. The best way to avoid injury to investors is to try to
13 ensure that what is reported represents what it purports to represent (FASB Statement of
14 Concepts No. 2, ¶¶95, 97).

15 46. Further, the undisclosed adverse information effectively concealed by the
16 Individual Defendants during the Relevant Period is the type of information which,
17 because of SEC regulations, regulations of the national stock exchanges and customary
18 business practice, is expected by investors and securities analysts to be disclosed and is
19 known by corporate officials and their legal and financial advisors to be the type of
20 information which is expected to be and must be disclosed.

21 47. The statements made and/or ratified by the Individual Defendants, examples
22 of which are contained in the Cutter & Buck releases referred to above, which announced
23 Cutter & Buck's financial results, were materially false and did not reflect the true financial
24 condition of the Company at the time of publication of each such release.
25

**THE CUTTER & BUCK BOARD HAS REFUSED TO PROPERLY MAXIMIZE
SHAREHOLDER VALUE AND HAS BREACHED ITS FIDUCIARY
DUTIES OWED TO THE SHAREHOLDERS OF CUTTER & BUCK**

48. The Director Defendants, by causing, approving and/or authorizing the issuance of false and misleading statements and financial results and/or acquiescing in their publication, breached the fiduciary duties owed to the Company and its shareholders, for at least the following reasons:

(a) It was a breach of fiduciary duty for the Individual Defendants, as members of the Board and, in the case of Lowber, as the most senior officer overseeing Cutter & Buck's accounting and auditing functions, to systematically fail to exercise oversight of Cutter & Buck's corporate financial record keeping, accounting and auditing procedures in compliance with GAAP and in order to present shareholders and investors with information concerning the Company's financial condition that was not false and misleading. Moreover, the Individual Defendants knew that such improper accounting treatment would cause the Company's assets to be overstated on the Company's financial statements and that the false and misleading financial statements and releases relating thereto would be published and relied upon by shareholders and investors. Such actions and omissions of the Individual Defendants constitute a knowing reckless or negligent failure to supervise and monitor the financial affairs of the Company, which resulted in harm to investors and shareholders after Cutter & Buck was forced to admit that the Company will be required to restate its earnings for fiscal years 2000, 2001 and 2002;

(b) It was a breach of fiduciary duty for the Individual Defendants, and particularly Conley, Mounger and Towne who served as members of Cutter & Buck's Audit Committee, to cause, approve and/or authorize in connection with Cutter & Buck's accounting, auditing and financial reporting practices, including the reporting of false financial results and false statements due to entries to sales into incorrect periods and inaccurate reporting of sales by distribution channels in order to inflate the Company's operating performance, causing the Company's stock to trade at artificially inflated levels.

1 The Individual Defendants have now admitted that Cutter & Buck's revenue and earnings
 2 for fiscal years 2000, 2001 and 2002 were materially overstated. By virtue of the actions
 3 and omissions complained of herein, the Individual Defendants systematically failed to
 4 exercise oversight of Cutter & Buck's corporate financial record keeping, accounting and
 5 auditing procedures to ensure accurate accounting treatment in compliance with GAAP
 6 and in order to present shareholders and investors with an accurate view of the Company's
 7 financial condition. Moreover, the Individual Defendants knew that such improper
 8 accounting treatment would cause the Company's assets to be overstated on the Company's
 9 financial statements and that the financial statements and releases relating thereto would be
 10 published and relied upon by shareholders and investors. Such actions and omissions of
 11 the Individual Defendants constitute a knowing reckless or negligent failure to supervise
 12 and monitor the financial affairs of the Company which resulted in harm to investors and
 13 shareholders after Cutter & Buck was forced to admit that it must restate its earnings; and

14 (c) It was a breach of fiduciary duty for the Individual Defendants to
 15 cause,
 16 approve and/or authorize publication of the Company's financial statements containing
 17 artificially inflated operating results that created the false and misleading impression that
 18 the Company was performing according to or exceeding their guidance, when the
 19 Individual Defendants knew that the financial statements were predicated upon the
 20 improper accounting treatment of Cutter & Buck's sales transactions, specifically including
 21 improper revenue recognition due to the improper entries of sales into incorrect periods
 22 and inaccurate reporting of sales by distribution channels.

22 DERIVATIVE AND DEMAND FUTILITY ALLEGATIONS

23 49. The Plaintiff brings this action derivatively in the right and for the benefit of
 24 Cutter & Buck to redress injuries suffered and to be suffered by Cutter & Buck as a direct
 25 result of the breaches of fiduciary duty, violations of law and waste of corporate assets, as

1 well as the aiding and abetting thereof, by the defendants. This is not a collusive action to
2 confer jurisdiction on this Court, which it would not otherwise have.

3 50. Plaintiff will adequately and fairly represent the interests of Cutter & Buck
4 in enforcing and prosecuting its rights.

5 51. Plaintiff is and was an owner of Cutter & Buck stock at times relevant to the
6 Individual Defendants' illegal and wrongful course of conduct alleged herein.

7 52. The Board of Cutter & Buck, at the time of the filing of the complaint,
8 consisted of the following individuals: defendants Conley, Mounger, Brownfield, and
9 Towne. Plaintiff has not made any demand on the present Board of Cutter & Buck to
10 institute this action because such a demand would be a futile, wasteful and useless act,
11 particularly for the following reasons:

12 (a) Defendant Conley, as interim Chairman and CEO, currently is an
13 inside Director of Cutter & Buck, and her principal professional occupation is her
14 employment with Cutter & Buck, pursuant to which she receives substantial monetary
15 compensation and other benefits. Accordingly, defendant Conley is beholden to the other
16 Director Defendants to maintain her employment with Cutter & Buck and related benefits,
17 rendering her incapable of impartially considering a demand to commence and vigorously
18 prosecute this action;

19 (b) As a result of their knowledge of, access to and review of internal
20 corporate documents; conversations and connections with other corporate officers,
21 employees and Directors; and attendance at Board meetings, each of the Director
22 Defendants knew the adverse non-public information regarding the improper accounting
23 and yet each of the Director Defendants has failed to take any action to prevent or correct
24 the acts complained of herein;

25 (c) According to Cutter & Buck's most recent Proxy Statement filed
with the SEC, defendants Conley (Chair), Mounger, and Towne, during the relevant
period, were members of the Company's Audit Committee. The Audit Committee is

1 responsible for monitoring the quality and integrity of the Company's financial reporting
2 process and systems of internal controls regarding finance, accounting and legal
3 compliance, as well as monitoring compliance with legal and regulatory requirements.
4 Nonetheless, the Audit Committee approved the Company's financial reporting during the
5 Relevant Period and was forced to recommend to the Board that the Company's financial
6 statements for fiscal years 2000, 2001 and 2002 be restated due to improper accounting
7 and financial reporting. By such actions, these defendants breached their duties by causing
8 or allowing the improper financial reporting described above. As a result of the
9 defendants' breach of these duties, in taking the action requested by plaintiff herein, there
10 is a substantial likelihood of liability as to defendants Conley, Mounger and Towne.

11 (d) The Compensation Committee of the Board determines the persons
12 who are to receive awards relating to their employment or service for Cutter & Buck, the
13 number of shares subject to each such award and the terms and conditions of each such
14 award. The Compensation Committee is comprised of defendants Mounger (Chair),
15 Brownfield and Conley. As the members of the Compensation Committee singularly
16 control the other defendants' awards, the remaining members of the Board will not institute
17 this action against defendants Mounger, Brownfield and Conley. To do so would
18 jeopardize each defendant's personal financial compensation. Thus, demand on defendant
19 Towne is futile;

20 (e) The entire Cutter & Buck Board and senior management, including
21 former directors Jones and Marks and former officer Lowber, participated in the wrongs
22 complained of herein. Cutter & Buck's Directors and senior management are not
23 disinterested or independent because the Director Defendants served on the Cutter & Buck
24 Board during the Relevant Period. Pursuant to their specific duties as board members,
25 each was charged with the management of the Company and to conduct its business
affairs. Each of the above-referenced defendants breached the fiduciary duties that they
owed to Cutter & Buck and its shareholders in that they failed to prevent and correct the

1 improper accounting and financial reporting. Thus, the Cutter & Buck Board cannot
2 exercise independent objective judgment in deciding whether to bring this action or
3 whether to vigorously prosecute this action, because its members are interested personally
4 in the outcome, as it is their actions which have subjected Cutter & Buck to millions of
5 dollars in liability for possible violations of applicable securities laws;

6 (f) Director Defendants Conley, Brownfield, Mounger, Towne, Jones
7 and Marks received stock options annually to serve on the Board and its committees.
8 Thus, these defendants had every incentive to participate in the improper accounting in
9 order to effectuate a commensurate rise in Cutter & Buck's stock price;

10 (g) Each of the key officers and Directors knew of and/or directly
11 benefited from the wrongdoing complained of herein;

12 (h) The Director Defendants, as more fully detailed herein, participated
13 in, approved and/or permitted the wrongs alleged herein to have occurred and participated
14 in efforts to conceal or disguise those wrongs from Cutter & Buck's stockholders, or
15 recklessly and/or negligently disregarded the wrongs complained of herein, and are
16 therefore not disinterested parties;

17 (i) The acts complained of herein constitute violations of the fiduciary
18 duties owed by Cutter & Buck's officers and Directors and these acts are incapable of
19 ratification;

20 (j) The acts of the Director Defendants complained of herein
21 demonstrate a lack of good faith in that the Director Defendants failed to provide oversight
22 of Cutter & Buck's accountants and auditors to ensure that sales transactions were properly
23 disclosed, accounted for and reported. The acts and omissions complained of occurred
24 with each Director's knowledge of the adverse non-public information about the
25 Company's business, as well as its finances, markets and present and future business
prospects via access to internal corporate documents (including Cutter & Buck's operating
plans, budgets and forecasts and reports of actual operations compared thereto),

1 conversations and connections with corporate officers and employees, attendance at Board
2 of Directors' meetings and committees thereof, and via reports and other information
3 provided to each Director in connection therewith. By virtue of the systematic failure of
4 the Director Defendants in fulfilling their fiduciary and other duties which required them to
5 exercise appropriate oversight of Cutter & Buck's accountants and auditors to ensure
6 accurate financial reporting, Cutter & Buck's directors' illegal acts and practices cannot be
7 deemed the valid exercise of business judgment;

8 (k) Each of the Director Defendants authorized and/or permitted the
9 false statements disseminated directly to the public or made directly to securities analysts
10 and which were made available and distributed to shareholders, authorized and/or
11 permitted the issuance of various of the false and misleading statements and are principal
12 beneficiaries of the wrongdoing alleged herein, and thus could not fairly and fully
13 prosecute such a suit even if such suit was instituted by them;

14 (l) Any suit by the current Directors of Cutter & Buck to remedy these
15 wrongs would likely expose the Individual Defendants and Cutter & Buck to further
16 violations of the securities laws, which would result in civil actions being filed against one
17 or more of the Individual Defendants, thus they are hopelessly conflicted in making any
18 supposedly independent determination whether to sue themselves;

19 (m) Cutter & Buck has been and will continue to be exposed to
20 significant losses due to the wrongdoing complained of herein, yet the Director Defendants
21 have not filed any lawsuits against themselves or others who were responsible for that
22 wrongful conduct to attempt to recover for Cutter & Buck any part of the damages Cutter
& Buck suffered and will suffer thereby;

23 (n) If the Director Defendants were to bring this derivative action
24 against themselves, they would thereby expose their own misconduct, which underlies
25 allegations against them contained in class action complaints for violations of securities
law, which admissions would impair their defense of the class actions and greatly increase

1 the probability of their personal liability in the class actions, in an amount likely to be in
2 excess of any insurance coverage available to the Individual Defendants. In essence, they
3 would be forced to take positions contrary to the defenses they will likely assert in the
4 securities class actions. This they will not do. Thus, demand is futile; and

5 (o) If Cutter & Buck's current and past officers and Directors are
6 protected against personal liability for their acts of mismanagement, abuse of control,
7 breach of fiduciary duty and unjust enrichment alleged in this Complaint by directors' and
8 officers' liability insurance, they caused the Company to purchase that insurance for their
9 protection with corporate funds, *i.e.*, monies belonging to the stockholders of Cutter &
10 Buck. However, due to certain changes in the language of directors' and officers' liability
11 insurance policies in the past few years, the directors' and officers' liability insurance
12 policies covering the defendants in this case contain provisions which eliminate coverage
13 for any action brought directly by Cutter & Buck against these defendants, known as, *inter*
14 *alia*, the "insured versus insured exclusion." As a result, if the Director Defendants were to
15 sue themselves or certain of the officers of Cutter & Buck, there would be no directors' and
16 officers' insurance protection and thus, this is a further reason why they will not bring such
17 a suit. On the other hand, if the suit is brought derivatively, as this action is brought, such
18 insurance coverage exists and will provide a basis for the Company to effectuate recovery.
19 If there is no directors' and officers' liability insurance at all, then the Director Defendants
20 will not cause Cutter & Buck to sue them, since they will face a large uninsured liability.

21 53. Moreover, despite the Director Defendants having knowledge of the claims
22 and causes of action raised by plaintiff, they have failed and refused to seek to recover for
23 Cutter & Buck for any of the wrongdoing alleged by plaintiff herein.

24 54. The Director Defendants, as a result of the substantial financial benefits
25 they received and continue to receive as a result of their positions at Cutter & Buck,
engaged in and/or aided and abetted and/or acquiesced in the wrongful actions complained

1 of herein and resolved all conflicts of interest in favor of themselves in order to protect and
2 preserve their positions with Cutter & Buck and the financial benefits that flow therefrom.

3 55. In order to facilitate and to attempt to conceal their wrongdoing, the
4 Director Defendants have caused Cutter & Buck to maintain an inadequate system of
5 internal financial and accounting controls such that Cutter & Buck's assets have not been
6 reasonably safeguarded against misuse.

7 56. The name of each person and/or entity who is responsible for, participated
8 in, conspired to bring about, or substantially and knowingly aided and abetted the fraud
9 complained of herein, is set forth in the caption of this Complaint. Furthermore, Cutter &
10 Buck's Board operated as a collective entity through periodic meetings held either in
11 person or telephonically where the Board discussed matters affecting its business and
12 reached collective and consensual decisions as to what action to take.

13 57. Plaintiff has not made any demand on shareholders of Cutter & Buck to
14 institute this action since such demand would be a futile and useless act for the following
15 reasons:

16 a) Cutter & Buck is a publicly held company with approximately 10
17 million shares outstanding, and thousands of shareholders;

18 b) Making demand on such a number of shareholders would be
19 impossible for plaintiff who has no way of finding out the names, addresses or phone
20 numbers of shareholders; and

21 c) Making demand on all shareholders would force plaintiff to incur
22 huge expenses, assuming all shareholders could be individually identified.

23 **DAMAGES TO CUTTER & BUCK**

24 58. As a result of the Individual Defendants' wrongful and illegal actions,
25 including their abuse of control and their unjust enrichment, defendants' violations of state
and federal securities laws, and the failure to maintain a system of internal financial and
accounting controls adequate to ensure the preservation of the Company's assets (including

1 both tangible and intangible assets), Cutter & Buck has suffered considerable damage to
 2 and drastic diminution in value of its tangible and intangible assets.

3 59. Cutter & Buck has and will expend significant sums of money as a result of
 4 the illegal and improper actions described above. Such expenditures will include, but are
 5 not limited to:

6 (a) Costs incurred as a result of the restatement or restatements;

7 (b) Costs incurred to carry out internal investigations, including legal
 8 fees paid to outside counsel; and

9 (c) Costs and legal fees for defending Cutter & Buck, its officers and its
 10 Directors against private litigation arising from the illegal and improper conduct alleged
 11 herein.

12 60. Moreover, these actions have irreparably damaged Cutter & Buck's
 13 corporate image and goodwill. For at least the foreseeable future, Cutter & Buck will
 14 suffer from what is known as the "liar's discount," a term applied to the stocks of
 15 companies who have been implicated in illegal behavior and have misled the investing
 16 public, such that Cutter & Buck's ability to raise equity capital or debt on favorable terms
 17 in the future is now impaired.

18 61. Furthermore, the Individual Defendants actions have caused the price of
 19 Cutter & Buck stock to fall from a Relevant Period high of \$15.94 to close on August 12,
 20 2002 at \$4.02. This amounts to a loss well over \$100 million of Cutter & Buck's market
 21 capitalization.

22 **FIRST CAUSE OF ACTION**

23 **Against All Defendants for Breach of Fiduciary 24 Duties of Loyalty and Due Care**

25 62. Plaintiff incorporates by reference and re-alleges each and every allegation
 contained above, as though fully set forth herein.

1 63. Defendants deliberately engaged in conduct in breach of their fiduciary
2 duties to Cutter & Buck, including, among other things:

3 (a) Continuously causing the Company to improperly account for sales
4 transactions, specifically including the Company's improper entries of sales into incorrect
5 periods and inaccurate reporting of sales by distribution channels, which caused the
6 Company to improperly recognize revenue for the fiscal years ended 2000, 2001 and 2002,
7 which were improperly accounted for under GAAP and would require restatement of the
8 Company's financial statements;

9 (b) Continuously causing the Company to artificially inflate operating
10 results and create the false and misleading impression that Cutter & Buck was performing
11 according to guidance sponsored by the Individual Defendants, when such defendants
12 knew that they had caused and/or authorized the Company to improperly account for sales
13 transactions, specifically including the Company's improper entries of sales into incorrect
14 periods and inaccurate reporting of sales by distribution channels, which caused the
15 Company to improperly recognize revenue for the fiscal years ended 2000, 2001 and 2002,
16 which merely created the false impression that the Company was operating according to
17 such guidance;

18 (c) Continuously causing Cutter & Buck to manipulate its reported
19 results during the Relevant Period by improperly accounting for and reporting sales
20 transactions, specifically including the Company's improper entries of sales into incorrect
21 periods and inaccurate reporting of sales by distribution channels, which caused the
22 Company to improperly recognize revenue for the fiscal years ended 2000, 2001 and 2002,
23 and thereby rendered Cutter & Buck's financial statements false and misleading; and

24 64. By reason of the foregoing, plaintiff, as a shareholder and representative of
25 Cutter & Buck, seeks relief for Cutter & Buck, which has sustained and will continue to
sustain irreparable harm and has no adequate remedy at law.

SECOND CAUSE OF ACTION

Against All Defendants for Abuse of Control

65. Plaintiff incorporates by reference and re-alleges each and every allegation contained above, as though fully set forth herein.

66. The Individual Defendants' misconduct alleged herein constituted an abuse of their ability to control and influence Cutter & Buck, for which they are legally responsible.

67. As a direct and proximate result of the Individual Defendants' abuse of control, Cutter & Buck has sustained significant damages.

68. As a result of the misconduct alleged herein, the Individual Defendants are liable to the Company.

69. By reason of the foregoing, plaintiff, as a shareholder and representative of Cutter & Buck, seeks relief for Cutter & Buck, which has sustained and will continue to sustain irreparable harm and has no adequate remedy at law.

THIRD CAUSE OF ACTION

Against All Defendants for Gross Mismanagement

70. Plaintiff incorporates by reference and re-alleges each and every allegation contained above, as though fully set forth herein.

71. By their actions alleged herein, the Individual Defendants, either directly or through aiding and abetting, abandoned and abdicated their responsibilities and fiduciary duties with regard to prudently managing the assets and business of Cutter & Buck in a manner consistent with the operations of a publicly held corporation.

72. As a direct and proximate result of the Individual Defendants' gross mismanagement and breaches of duty alleged herein, Cutter & Buck has sustained damages.

73. As a result of the misconduct and breaches of duty alleged herein, the Individual Defendants are liable to the Company.

1 74. By reason of the foregoing, plaintiff, as a shareholder and representative of
2 Cutter & Buck, seeks relief for Cutter & Buck, which has sustained and will continue to
3 sustain irreparable harm and has no adequate remedy at law.

4 **FOURTH CAUSE OF ACTION**

5 **Against All Defendants for Unjust Enrichment**

6 75. Plaintiff incorporates by reference and re-alleges each and every allegation
7 set forth above, as though fully set forth herein.

8 76. By their wrongful acts and omissions, defendants were unjustly enriched at
9 the expense of and to the detriment of Cutter & Buck.

10 77. Plaintiff seeks restitution from these defendants, and each of them, and
11 seeks an order of this Court disgorging all profits, benefits and other compensation
12 obtained by these defendants, and each of them, from their wrongful conduct and fiduciary
13 breaches.

14 78. By reason of the foregoing, plaintiff, as a shareholder and representative of
15 Cutter & Buck, seeks restitution and disgorgement of profits for the Company as
16 hereinafter set forth.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, plaintiff demands judgment, including preliminary and permanent
19 injunctive relief, in favor of Cutter & Buck and against all defendants, and each of them, as
20 follows:

21 A. Declaring that all defendants, and each of them, have breached and are
22 breaching their fiduciary and other duties to Cutter & Buck and its public shareholders;

23 B. Granting compensatory damages against defendants in favor of Cutter &
24 Buck;

25 C. Extraordinary equitable and/or injunctive relief as permitted by law, equity
and state statutory provisions sued hereunder, including attaching, impounding, imposing a

1 constructive trust on or otherwise restricting the proceeds from defendants' improper
2 activities or their other assets so as to assure that plaintiff on behalf of Cutter & Buck has
3 an effective remedy;

4 D. Awarding plaintiff's costs and disbursements and plaintiff's attorneys' fees;
5 and

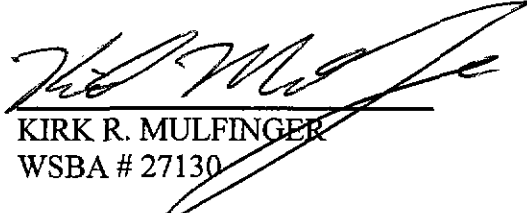
6 E. Granting such other and further relief as the Court may deem just and
7 proper.

8 **JURY DEMAND**

9 Plaintiff demands a trial by jury.

10 DATED this 8 day of July, 2003.
11

12 LAW OFFICES OF KIRK R. MOLFINGER

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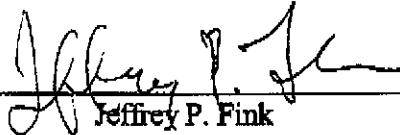
VERIFICATION

I, Jeffrey P. Fink, hereby declare as follows:

1. I am a member of the law firm of Robbins Umeda & Fink, LLP, counsel for plaintiff in the above-entitled action. I have read the foregoing complaint and know the contents thereof. I am informed and believe the matters therein are true and on that ground allege that the matters stated therein are true.

2. I make this Verification because plaintiff is absent from the County of San Diego where I maintain my office.

Executed this 26th day of June, 2003, at San Diego, California.



Jeffrey P. Fink